

### REMARKS

Favorable reconsideration of this application in light of the following discussion and present amendments is respectfully requested.

Claims 1-6 are presently active in this case. The present amendment amends Claims 1-6. The above amendment shows the amended claims in clean form, the attachment shows a marked-up copy for the Examiner's convenience.

In the outstanding Office Action, Claims 1-6 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite. Claims 1 and 3-6 were rejected under 35 U.S.C. § 102(b) as anticipated by Drury (U.S. Patent 4,199,866). Claim 2 was rejected under 35 U.S.C. § 103(a) as unpatentable over Drury in view of Applicants' admitted art.

First, Applicants wish to thank the Examiner for the courtesy of an interview granted to Applicants' representative on December 4, 2002, at which time the outstanding issues in this case were discussed. Arguments similar to the ones developed hereinafter were presented and the Examiner indicated that the claims now more clearly drawn to a combination which appears to define over Drury. The Examiner indicated he would reconsider the outstanding grounds for rejection upon formal submission of a response.

In response to the rejection under 35 U.S.C. § 112, second paragraph, Claims 1-6 are amended to correct the noted informalities. In view of amended Claims 1-6, it is believed that all pending claims are definite and no further rejection on that basis is anticipated. If, however, the Examiner disagrees, the Examiner is invited to telephone the undersigned who will be happy to work with the Examiner in a joint effort to derive mutually acceptable language.

Now turning to the rejection of Claims 1 and 3-6 under 35 U.S.C. § 102(b) as anticipated by Drury, the rejection is traversed.

Claims 1-6 are amended to clarify that those claims incorporate the elements of the mixer and the capsule in combination. To that end, in Claims 1-6 the preamble is amended to be consistent with the elements of the mixer and capsule recited in structural combination in the bodies of the claims. Further, applicants echo the arguments recited in the amendment filed August 7, 2002, below, now clarified in view of the fact that the claims are now more clearly directed to a mixer and a capsule device.

Claim 1 is directed to a mixer and a capsule in combination for a dental restoration material for mixing a powder component and a liquid component of the dental restoration material by shaking. The mixer includes a mixing component of a capsule configured to retain the dental restoration material and has an air-permeable filter configured to ventilate air within the mixing compartment to an outside of the mixing compartment, placed as an outer wall constituting at least a part of a peripheral wall of the mixing compartment. Also included is a capsule holding chamber configured to hold the capsule in a portion other than a portion corresponding to the air-permeable filter. The capsule holding chamber is further connected to a vacuum device.

For example, as shown in Figures 2-5, an air-permeable filter 1c is included in the mixing compartment 1a of the capsule and is configured to ventilate air within the mixing compartment 1a to an outside of the mixing compartment 1a. Thus, air present in the compartment for mixing the dental restoration material including a powder component A and a liquid component B accommodated in the capsule is sucked out of the mixing compartment to render the mixing compartment in vacuo, whereby the powder component and the liquid component can be mixed with each other by shaking (see the paragraph bridge in pages 8 and 9).

The outstanding Office Action states Drury discloses a mixer with a capsule holding chamber 18 for holding a capsule 28 for dental restoration material. Further, the outstanding Office Action indicates the chamber is connected to a vacuum device 64.

However, as noted above, the claims recite an air-permeable filter configured to ventilate air within the mixing component to an outside of the mixing component, placed as an outer wall constituting at least part of a peripheral wall of the mixing compartment. Drury, however, does not teach or suggest an air-permeable filter, and thus cannot achieve the advantages of the present invention.

Therefore, it is respectfully submitted that independent Claim 1 and each of the claims depending therefrom are allowable.

Claim 2 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Drury in view of admitted art. This rejection is respectfully traversed.

Claim 2 depends on Claim 1, which as discussed is believed to be allowable. Further, the admitted art does not teach or suggest the claimed air-permeable filter. Therefore, it is respectfully requested that this rejection also be withdrawn.

The present amendment is submitted in accordance with the provisions of 37 C.F.R. § 1.116, which after final rejection permits entry of amendments placing the claims in better form for consideration on appeal. As the present amendment is believed to overcome the outstanding rejections under 35 U.S.C. § 112, second paragraph, 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a), the present amendment places the application in better form for consideration on appeal. In addition, the present amendment is not believed to raise new issues since the changes to Claims 1-6 are of a minor nature. It is therefore respectfully requested that 35 C.F.R. § 1.116 be liberally construed, and that the present amendment be entered.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal allowance. A Notice of Allowance for Claims 1-6 is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, he or she is encouraged to contact the Applicants' undersigned representative at the below listed telephone number.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Gregory J. Maier  
Registration No. 25,599  
Attorney of Record  
Surinder Sachar  
Registration No. 34,423



**22850**

GJM:SNS:TJM:smi  
Tel.: (703) 413-3000  
Fax: (703) 413-2220  
I:\ATTY\TJM\208267US-AM.DOC

<b>Marked-Up Copy</b>	
Serial No:	09/852,210
Amendment Filed on:	12-19-02

IN THE CLAIMS

Please amend Claims 1-6 as show below.

--1. (Twice Amended) A mixer [for] and a capsule in combination for a dental restoration material for mixing a powder component and a liquid component of the dental restoration material by shaking, comprising:

a mixing [component] compartment to a capsule holding chamber of a capsule configured to retain the dental restoration material and having an air-permeable filter configured to ventilate air within the mixing compartment to an outside of the mixing compartment, placed as an outer wall constituting at least a part of a peripheral wall of the mixing compartment; and

a capsule holding chamber configured to hold the capsule in a portion other than a portion corresponding to the air-permeable filter, the capsule holding chamber being connected to a vacuum device.

2. (Amended) The mixer [for] and a capsule in combination for dental restoration material as claimed in claim 1, wherein the vacuum device is an ejector connected to a compressed air supply device for a dental unit.

3. (Amended) The mixer [for] and a capsule in combination for dental restoration material as claimed in claim 1, further comprising a cap coupled to the capsule, said air-permeable filter being placed between the capsule and the cap.

4. (Amended) The mixer [for] and a capsule in combination for dental restoration material as claimed in claim 3, further comprising a nozzle extending from said capsule and having a mixture passage, said air-permeable filter being disposed within the mixture passage.

5. (Amended) The mixer [for] and a capsule in combination for dental restoration material as claimed in claim 1, further comprising an aperture window formed on the peripheral wall, said air-permeable filter being disposed in the aperture window.

6. (Amended) The mixer [for] and a capsule in combination for dental restoration material as claimed in claim 1, further comprising:

a plunger disposed within the capsule and configured to extrude the dental restoration material; and

an aperture window formed on the plunger, said air-permeable filter being disposed in the aperture window.--